

FEB 16 1990

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
Request for Waiver of)
Table of Allocations)

File No. 10-DSS-MISC-90

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Domestic Radio Division
Satellite Radio Branch

RESPONSE OF AMERICAN MOBILE SATELLITE CORPORATION

American Mobile Satellite Corporation ("AMSC"), by its attorneys, hereby replies to the comments filed in the above-captioned proceeding. By its request, AMSC is seeking a waiver of the Table of Allocations so that it may use International Maritime Satellite Organization ("Inmarsat") satellites to provide an early mobile satellite service ("MSS") during the period before 1994 when AMSC's own satellites become operational.^{1/} Inmarsat satellites operate on frequencies that are adjacent to those the Commission has allocated for MSS and assigned to AMSC.^{2/} Customers of the early service will be shifted from Inmarsat's satellites to AMSC's system when the first AMSC satellite becomes operational.

The first step in AMSC's provision of early service is an agreement with Communications Satellite Corporation ("Comsat")

^{1/} Section 2.106 of the Commission's rules allocates the frequencies that are the subject of this waiver request to Maritime Mobile Satellite Service ("MMSS"). The Commission, however, recently undertook a review of the current allocation and proposes that the allocation be broadened to include other mobile satellite services. See FCC News Release No. 1731, February 8, 1990.

^{2/} AMSC is authorized to operate on the 1545 - 1559 MHz and 1646.5 - 1660.5 MHz bands.

for the right to use Marisat F-1. Comsat, the U.S. signatory to Inmarsat, has filed a Section 214 application requesting Commission approval of this lease.^{3/} AMSC is also requesting authority to operate up to 30,000 mobile earth stations for use in conjunction with Inmarsat space segment, including Marisat F-1.^{4/} AMSC anticipates that it also will enter into additional agreements with Comsat that give AMSC access to other Inmarsat satellites to provide more capacity for its early service.

For its early service, AMSC expects to spend millions of dollars on facilities that will process incoming and outgoing calls, provide link monitoring to verify authorization and establish billing, handle signalling with Comsat, and ensure that calls are routed to the appropriate destinations. Through its early service, AMSC will provide MSS on a common carrier basis, ultimately serving thousands of users. AMSC also will use the

^{3/} Comsat Section 214 Application, File No. I-T-C-90-038 (December 19, 1989).

^{4/} The mobile terminal application has not been placed on public notice. There also are other AMSC applications that relate to the use of the frequencies that are the subject of this waiver request, but these applications do not involve early service. One is an application for AMSC to construct its satellites so that they will be capable of operating in the MMSS band. See Request for Modification and Supplemental Information of American Mobile Satellite Corporation, File Nos. 7-DSS-MP/ML-90, 8-DSS-MP/ML-90, 9-DSS-MP/ML-90 (December 4, 1989). The other is a request for a permanent waiver, so that AMSC's satellites also may operate in the MMSS band. See Application for Modification of Space Station Authorizations and Request for Waiver of American Mobile Satellite Corporation, (filed January 25, 1990).

Inmarsat space segment for tests, demonstrations and validation of network control operations. The use of Inmarsat satellites and the attendant need for a waiver will end in 1994 after AMSC's customers are shifted to AMSC's own space segment.

The waiver request is clearly in the public interest. There will be no harm to other users of the band, and the early service will meet important communications needs that otherwise will be unmet until the launch of AMSC's own satellites.

Discussion

Four parties filed comments on the waiver request; Comsat,^{5/} Geostar Messaging Corporation ("Geostar") and Aeronautical Radio, Inc. ("Arinc") and Air Transport Association of America ("ATA").^{6/} Perhaps the most noteworthy aspect of the pleadings is that none of the commenters expresses any substantive objections to the use of the maritime frequencies for a broader range of mobile satellite services on an interim basis. None of the parties even attempts to submit evidence that there is no need for an early

^{5/} In its comments, Comsat supported the AMSC waiver request as it relates to AMSC's proposed use of Marisat F-1. It is AMSC's understanding that Comsat is filing today a clarification stating that it also supports AMSC's request as it applies to any future arrangement between AMSC and Comsat for use of Inmarsat facilities for early service. This being consistent with AMSC's position, there is no need for further comment on the Comsat filing.

^{6/} Arinc and ATA submitted a joint filing.

mobile satellite service or that there would be any harm to existing maritime users if the Commission authorized the use of the proposed frequencies for an early mobile satellite service. No one argues that there is other space segment that could be used for an early mobile satellite service or that other frequencies should be used. Thus, the public interest basis for the waiver is entirely unrefuted.

As discussed below, the only issues raised by the commenters involve matters and proceedings other than the waiver request itself. AMSC submits that the Commission should not permit these other matters, which are at most ancillary to the AMSC waiver request, to impede the speedy grant of the waiver request itself.

Geostar. Geostar is the only party to oppose explicitly the waiver request. Geostar's Opposition contends that the Commission should not grant the AMSC waiver request without additional information on such things as the satellites to be used and the technical characteristics of the transmissions and the mobile earth stations. Geostar Opposition at 4. Geostar also seeks assurances from the Commission that the AMSC waiver request will not be granted until the Commission has reviewed the Comsat Section 214 application regarding AMSC's use of Marisat F-1. Id. at 4-6.

Thus, all of Geostar's arguments relate to ancillary proceedings, such as the AMSC application for mobile terminals or

the Comsat Section 214 application for Marisat F-1. AMSC will respond to these arguments in the appropriate proceedings. There is nothing about Geostar's concerns, however, that argues against the grant of the AMSC waiver itself.^{7/}

Arinc/ATA. Arinc and ATA do not oppose the AMSC waiver request explicitly, but rather seek to attach certain "conditions" or "clarifications" to any grant of the request. The first of these conditions is that the grant should be non-exclusive as against other aviation service providers. Arinc/ATA Comments at 4-8. The second condition is that the number of mobile units authorized be limited to approximately 100 units. Id. at 9-10. The third condition is that AMSC not be permitted to claim that it has a role in protecting aviation safety in connection with its use of Inmarsat satellites. Id. at 11.

^{7/} Geostar, which has sought an allocation of these particular frequencies for a new mobile satellite service, also appears concerned that AMSC somehow will use its early service to establish "squatter's rights" to the frequencies. Geostar Opposition at 3. AMSC has made it clear, however, that the instant waiver request applies only to the temporary use of the frequencies during the period of time preceding the launch and operation of AMSC's own satellites. AMSC's early service customers will be equipped with radios that then can be retuned to the adjacent frequencies that already have been assigned to AMSC. AMSC also is seeking a permanent authorization to use the MMSS frequencies, but that application is separate and distinct from the application that is before the Commission in this proceeding. See note 3 supra.

As is readily apparent, none of these conditions are directly related to the AMSC waiver request. The first condition, which concerns AMSC's exclusive use of Inmarsat for domestic MSS, relates to a waiver request filed recently by Arinc and ATA, in which they seek to bypass AMSC as the sole domestic MSS-AMSS(R) licensee.^{8/} As AMSC explained in its Opposition to the Arinc/ATA waiver request, AMSC is, in fact, the sole MSS-AMSS(R) licensee and, therefore, consistent with legal and policy reasons underlying the award of its license, AMSC is the only entity that should take service directly from Comsat for interim domestic MSS.^{9/} Nevertheless, the Commission need not reach the exclusivity issue in the instant proceeding to permit AMSC to provide early service via Comsat's Inmarsat facilities.

The second condition principally relates to AMSC's mobile terminal application. Although AMSC will address the matter more fully in response to any comments filed on its mobile terminal application, it bears noting that AMSC has taken ample precautions to insure that its mobile terminals will not cause interference to aviation safety or other communications. AMSC, working with Comsat and Inmarsat, will put in place the necessary controls to prevent any interference. The equipment will be type

^{8/} See Request for Waiver of Aeronautical Radio, Inc. and Air Transport Association of America, File No. I-S-P-90-002 (November 7, 1989) ("Arinc/ATA Waiver Request").

^{9/} See AMSC Opposition to Arinc/ATA Waiver Request, File No. I-S-P-90-002 (filed January 8, 1990) at 16-29.

approved and have to go through rigorous commissioning procedures. Among other things, AMSC's Network Operations Center will have the ability to shut down immediately any mobile earth terminal that presents a problem.

As to Arinc/ATA's third condition, which concerns AMSC's role in protecting aviation safety, the fact of the matter is that AMSC, as the U.S. AMSS(R) licensee, has a continuing role in the provision of domestic aviation safety services even if such services are provided on Inmarsat facilities for interim service.¹⁰

Conclusion

Therefore, considering the strong public interest in beginning service as soon as possible and in light of the fact that no commenters challenge directly the use of MMSS spectrum for the early mobile satellite service, AMSC respectfully requests that the Commission grant the requested temporary waiver

¹⁰ See AMSC Opposition at 25-29 and attached affidavits of Frank L. Frisbie and Thomas Michael Sullivan.

so that AMSC may begin offering mobile satellite services as early as possible.

Respectfully submitted,

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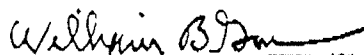
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February 16, 1990

AMERICAN MOBILE SATELLITE CORPORATION

DECLARATION

I, William Garner, under penalty of perjury, do hereby declare as follows: I have reviewed the foregoing Response. The facts contained therein are true and correct to the best of my knowledge and belief.



William Garner
Chief Scientist
American Mobile Satellite
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Date: 16 February 1990

CERTIFICATE OF SERVICE

I, Ruth E. Davis, a secretary in the law offices of Gurman, Kurtis, Blask & Freedman, Chartered, do hereby certify that on this 16th day of February, 1990, a copy of the foregoing "REPLY OF AMERICAN MOBILE SATELLITE CORPORATION" was sent by U.S. first class mail, postage prepaid, to:

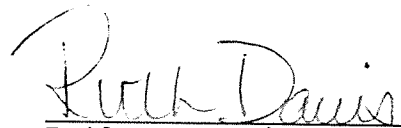
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